IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 2205 of 2007(K)

PETITIONER:

UNNI. S/O.K. LEKSHMANAN,
RESIDING AT KLN COTTAGE, PAMPUKALA,
KARUMKULAM VILLAGE, NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.N.SUKUMARAN
SRI.S.SHYAM
SRI.N.K.KARNIS
SMT.PARVATHY ANIL

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO LAND REVENUE DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM.

2. REVENUE DIVISIONAL OFFICER, KOLLAM.

3. TAHSILDAR, KOTTARAKKARA TALUK,
KOTTARAKKARA.

4. DISTRICT COLLECTOR,
KOLLAM DISTRICT.

ADDL. RESPONDENT:

5. PONNAMMA DEVI, DEVI CASHEW FACTORY,
PUTHOOR.P.O., KOTTARAKKARA TALUK,
KOLLAM DISTRICT.

(ADDL. R5 IS IMPLEADED AS PER ORDER DATED 25.1.2007
IN I.A. NO.1238/2007.)

BY G.P. SRI.TEKCHAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON 15/10/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE ORIGINAL COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER ON 16.1.2007 WITHOUT DATE.

TRUE COPY

PA TO JUDGE

V.GIRI, J.

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W.P.(C) No.2205 of 2007

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Dated this the 15th day of October, 2007.

JUDGMENT

The petitioner is the highest bidder in an auction sale of immovable properties conducted on 17.6.2006. The petitioner offered the highest amount of Rs.22,01,500/- which seems to be above the upset price. The entire bid amount was remitted by the petitioner. But later, the Revenue Divisional Officer set aside the auction sale conducted on 17.6.2006, by Ext.P1 order on the premise that the upset price fixed for the property was low and that on local enquiry it was known that the property would have fetched more than Rs.25,000/- per cent and directed a fresh auction. Ext.P1 is under challenge in this W.P.

2. Learned counsel for the petitioner Mr.Sukumaran contended that apart from other grounds urged in Ext.P1, the RDO has proceeded to pass the said order without notice to the auction purchaser. Learned Government Pleader Mr.Tekchand submits that on a reading of Ext.P1, it seems to be correct, but makes an attempt to support Ext.P1 on other grounds.

3. Having heard the learned counsel for the petitioner and the learned

Government Pleader I am of the view that Ext.P1 order is liable to be set aside on the short ground that the auction purchaser was not heard by the Collector before the sale was set aside. It is also noteworthy that the auction purchaser had deposited the entire bid amount, prior to the passing of Ext.P1 order. In the circumstances, W.P. is allowed, Ext.P1 order is set aside and the RDO is directed to pass a fresh order in the matter of confirmation of the auction sale conducted on 17.10.2006. If the RDO is inclined to set aside sale on any grounds as is permissible in law, he shall issue a notice indicating such reasons to the petitioner, invite his objections, hear the petitioner and then pass an order. Fresh order in this regard shall be passed within a period of three months from the date of receipt of a copy of this judgment.

V.GIRI
Judge

pms